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equal loss to know why it has seemed best in most jurisdictions to abolish these forms of action and substitute the single civil action. Without resorting to the works of such recognized authorities as Pollock and Maitland, Professors Ames, Langdell and Bigelow, to whom the author acknowledges indebtedness, it is safe to assert that a study of Hepburn's "Development of Code Pleading" and, say, Martin on Civil Procedure at Common Law, would afford a much more complete and satisfactory knowledge of the topics treated than can be obtained from Mr. Street's volume.

FOIBLES OF THE BENCH. By HENRY S. WILCOX. Chicago: Legal Literature Company. 1906. pp. 144.

This book is an entirely serious and praiseworthy effort on the part of the author, as stated in the preface, to call the attention of the public to such defects, abuses and weaknesses of the bench as he has noticed in the practice of his profession, and to suggest, perhaps, such improvements as have seemed to him to be fit. The author does this with the almost pardonable assumption of a right to put before us all his ideas, from the fact of his having passed the half century mark and spent the larger portion of that time in actual practice as a trial lawyer. The experiences which are the foundation of his conclusions are apparently chiefly those in the Cook County Courts of Illinois.

The book is but the forerunner of a series in which others to follow are to deal with the various frailties and weaknesses of the profession itself, and of the laymen who are, unfortunately, drawn and serve as jurymen, and of the general subject of the law. The author states that there are no books known to him that are of similar character. Any one that reads this book will agree with him.

The author's method in setting forth the "foibles of the Bench" is by taking, chapter by chapter, certain abstract qualities, such as "egotism," "courtesy," "courage," "corruption" and "pugnacity," and after a preliminary discussion of such unpleasant or pleasant traits, he proceeds to a clinical and concrete discussion of each, by bringing before us some judge as a horrible example whom he regards as an instance that will prove his contention. It is a commendable use of the text book system of citing a principle and then finding a case to prove it, even though the case be one of the writer's own creation, as he himself admits.

The author disavows any malicious or petty purpose by stating that in exhibiting the characters "he has not intended to assail any person living or blacken the memories of any who have departed." The characters, he states, are rather "garments, which he has cut;" he has left to us the interesting task of placing them upon those who are best fitted to wear them. Our feeling, however, is that far from being completed garments, the characters are in shreds when finished by their creator, for as the author warms to his subject the "foibles," (which we have always supposed to be faults of a not serious character) develop into what might well be the grounds for impeachment and indictment.

It is hard to say whether the author himself was ever a judge. From the fact that most of the characters, if not all, that he brings before us are judges of altogether undesirable qualities, it is reasonable to suppose that he never was a judge himself. The book, most pessimistic as to the present character of the Bench, does not go so far as to say there are no good judges, but perhaps it is merely an effort on the part of the

author to confine himself to writing only of such characters as possess "judicial foibles."

A great deal of information can be gained from the book, which almost justifies its publication. It first tells us that the judge is "neither the Creator nor the Preserver of things human and divine." "His business is to judge, to decide, to compare, and determine relative to existing things. The same function is exercised by the person who identifies a calf." The author then goes on to reassure us of that old truth of the division of our Government into three branches, "the Executive, Legislative and Judicial," and to tell us that "the splendid superstructure of our liberties is supported by these three pillars," and that "a proper balance can only be maintained by each department attending strictly to its own business." Apparently the author intends in such comment no personal reference to present executives. As to judges, he lays down the rule that "this office is no place for boys." He says that a judge "sees before him men of advanced years, large experience and great reputation," and here, again, no reference to personal experience is intended. He says that "this spectacle is calculated to give the youth an extravagant notion of his powers," so that "if he at his age can occupy such an elevated eminence, he concludes that he is a superior being." And, as to the need of *courtesy* in a judge, we find that "courtesy is the essence of the Golden Rule, the hand-maiden of love." "Without it no association can be pleasant, no home can be happy." Ergo, let us have courtesy in the Courts. "The cross, crabbed and ill-natured exhale the psychic influences of discomfort and confusion. From every portion of their body fly invisible arrows which tend to distract, confuse and undo all with whom they come in contact." To prove his case he tells us of "Judge Wasp," a most discourteous person, with "a microscopic eye for flaws and defects" and with a voice having a thin and nasal twang, "whose thrusts stung like poisoned arrows." It is hard not to believe that our author must have some time in his career received an unfavorable decision from Judge Wasp, so severe and almost unkind are his characterizations of him.

To illustrate the value of "concentration" in judicial functions, we are introduced to a wearer of the ermine whose life was "full of duties and desires that seriously interfered with the conduct of his court." This honorable gentleman was "Judge Do-all," who, when elevated to the Bench was about fifty years of age, "had been married five times, and had thirteen living children; four had perished prematurely." The author describes his wives, one by one, telling the distressing circumstances of their deaths or divorces. The third was a particularly strenuous help-meet; he tells us she was "square-shouldered, broad-headed and masculine," and the statement is borne out by the fact that "she lived with him long enough to have ten children," and then, horror of horrors, "left him in disgust, after she had been several times bitten by his pet snake!" To our surprise he, and not she, obtained the divorce. The reader, without receiving any further details of the crowded life of this judge, can at once conclude that the trait of "concentration" was not for him. It is an interesting side-light on the temper of our author to note that he values *courage* and "much of it," as often, if not always, essential in the formation of a correct decision. As our author says, it is "essential that a judge have something in his breast that money cannot buy," and to his great regret, too often men are elevated to the Bench who do not possess this courage.

And so the author goes on treating the qualities of "decision," "vain display," "corruption" and "pugnacity," with a sort of an omnibus chapter which he terms "Additional Varieties."

The book is a thoroughly up-to-date one, for it devotes one entire chapter to "corruption;" in it we meet the original "Judge Graft," "the darling of well-to-do and rich parents, reared in wealth and luxury, and given a good education, in the best college," "unusually bright by nature, with a sparkling eye and a scintillating wit." He apparently did not gain all by corruption, for "his smile was winning." Departing from the personal reference to Judge Graft, the author passes on to a general discussion of passes and free tickets, placing himself in complete opposition to any system which tolerates gratuities.

We regret that the author feels compelled to state that he has omitted to introduce many specimens among the "Additional Varieties" which probably deserve attention, even though, after we had gone through the list of leading characters, all villains, and the chorus of "Additional Varieties," we felt downcast; and we recommend the book as a good tract for judicial reform. But however gloomy may seem the picture that the author gives us of our Bench, he concludes with a chapter full of hope for the Bar, when he tells us that, if "properly pursued," he "knows of no vocation more pleasant than that of a lawyer." For the expert lawyer his message is one of hope; for such a lawyer is "well paid for his services."

Running through the book is a paternal didactic spirit and a quaint, almost childlike style; so that the impression is created that the author's intention is to touch up judicial frailties in a kindly humorous fashion beyond the due bounds of which he has been too frequently carried by his enthusiasm and, perhaps, unpleasant personal memories.

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